



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/169062

PRELIMINARY RECITALS

Pursuant to a petition filed September 28, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Outagamie County Department of Human Services in regard to Medical Assistance, a hearing was held on November 10, 2015, at Appleton, Wisconsin.

The issue for determination is whether the Outagamie County Department of Human Services (the agency) correctly denied BadgerCare+ benefits to the Petitioner and his wife.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Kelly McCarthy, Staff Development Specialist
Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. Petitioner and his wife are permanent alien residents. They have lived in the United States since February 19, 2011. (Exhibit 16)
3. Petitioner completed a SMRF on June 29, 2015. (Exhibit 9)

4. He filed a change report on August 17, 2015. (Exhibit 9)
5. On September 9, 2015, the agency sent the Petitioner a notice indicating that effective October 1, 2015, he and his wife were not eligible for BadgerCare+ benefits, because they were not U.S. Citizens or qualified immigrants. (Exhibit 14)
6. The Petitioner filed an appeal that was received by the Division of Hearings and Appeals on September 28, 2015. (Exhibit 1)

DISCUSSION

The Petitioner filed an appeal because he and his wife were denied FoodShare benefits.

A non-citizen who holds what is commonly referred to as a “green card” is considered Lawfully Admitted for Permanent Residence (LPR).

In order for an individual who is Lawfully Admitted for Permanent Residence (LPR) to be eligible for FoodShare benefits, the individual must have entered the U.S. on or after August 22, 1996 and must meet **one** of the following conditions:

1. Lawfully residing in Wisconsin and an honorably discharged veteran of the U.S. Armed Forces, or
2. Lawfully residing in Wisconsin and on active duty (other than active duty for training) in the U.S. Armed Forces, or
3. Lawfully residing in Wisconsin and the spouse, unmarried dependent child, or surviving spouse of a person described in “a” or “b”, or
4. An Amerasian, or
5. Resided in the U.S. for at least five years since his or her date of entry.

BadgerCare+ Eligibility Handbook §4.3

The Petitioner has a “green card” / Permanent Resident Card and is therefore, Lawfully Admitted for Permanent Residence.

However, there is no evidence that the Petitioner or his wife is a discharged veteran of an on active duty in the U.S. Armed Forces. Nor is there any claim that the Petitioner or his wife are Amerasian.

Finally, Petitioner and his wife have resided in the U.S. since February 19, 2011. So, they have not yet met the five year residency requirement. **NOTE: Petitioner and his wife, and 20-year old daughter will meet the five year residency requirement in February 2016, three months from now. Thus, as of that date, they will be eligible for benefits if all other financial and non-financial criteria are met.**

Based upon the foregoing, it is found that the Petitioner and his wife were not qualified immigrants for the purpose of receiving BadgerCare+ benefits, effective October 1, 2015.

CONCLUSIONS OF LAW

The agency correctly denied the Petitioner BadgerCare+ benefits effective October 1, 2015.

THEREFORE, it is

ORDERED

The Petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

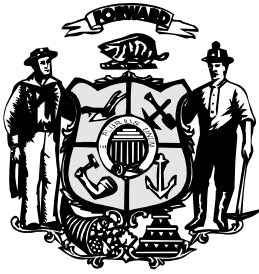
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 19th day of November, 2015.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 19, 2015.

Outagamie County Department of Human Services
Division of Health Care Access and Accountability